

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MANUEL GONZALEZ-LEYTON, ) Civil No. 08cv927-L(CAB)  
Petitioner, )  
v. ) **ORDER DENYING WITHOUT  
MICHAEL CHERTOFF, SECRETARY ) PREJUDICE PETITIONER'S  
OF THE DEPARTMENT OF ) MOTION FOR APPOINTMENT OF  
HOMELAND SECURITY, *et al.*, ) COUNSEL  
Respondents. )  
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On May 23, 2008 Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. He moves for appointment of counsel pursuant to 18 U.S.C. § 3006A, indicating that Federal Defenders of San Diego, Inc., who assisted him in the preparation of the Petition and motion for appointment of counsel, is willing to represent him as his appointed counsel. For the reasons which follow, Petitioner's motion is **DENIED WITHOUT PREJUDICE**.

Section 3006A(2)(b) provides that “[w]henever . . . the court determines that the interests of justice so require, representation may be provided for any financially eligible person who is seeking relief under section 2241 . . .” The Petition indicates that Petitioner is currently represented by retained counsel on his appeal of the order of removal to the Ninth Circuit Court of Appeal. The court therefore questions his financial eligibility under section 3006A. To make

1 a showing of financial eligibility, Petitioner must file a declaration under 28 U.S.C. § 1915. *See*  
2 28 U.S.C. § 1915(e)(1). Although Petitioner has filed a Prison Certificate and Trust Account  
3 Withdrawal Authorization, he has not filed the requisite declaration providing a disclosure  
4 regarding any other income or assets he may possess. Moreover, Petitioner has not filed any  
5 kind of affidavit in support of his motion. Although he signed the motion, he did not sign it  
6 under oath and the motion was prepared by Janet Tung of Federal Defenders of San Diego, Inc.  
7 Petitioner has not filed an affidavit stating the factual basis why he meets the requirements of  
8 section 3006A(2)(b), such as, for example, his educational background, proficiency in the  
9 English language, and why the court should appoint counsel for him when he is simultaneously  
10 able to support a retained counsel on appeal.

11 For the foregoing reasons Petitioner ‘s motion for appointment of counsel is **DENIED**. If  
12 Petitioner chooses to renew the motion, he must remedy the deficiencies noted herein and  
13 provide sufficient factual basis, supported by his affidavit, showing that he meets all the  
14 requirements of section 3006A(2)(b).

15 **IT IS SO ORDERED.**

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17 DATED: May 29, 2008

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M. James Lorenz  
United States District Court Judge

21 COPY TO:

22 HON. CATHY ANN BENCIVENGO  
UNITED STATES MAGISTRATE JUDGE

23 ALL PARTIES/COUNSEL

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